IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 18037 of 2004

Between:

G.Chandru, S/o.bheemla, Sarpanch (Under Suspension)

Bhavanipur Gram Panchayat, Machareddy (M)
Nizamabad Dist.

..... PETITIONER

AND

1 The Collector (Panchayat Wing) Nizamabad, Nizamabad Dist.
2 The Dist. Panchayat officer, Nizamabad, Nizamabad Dist.
3 The Divisional Panchayat officer, Kamareddy, Nizamabad Dist.
4 The Extension officer (PR &RD) Machareddy, Nizamabad Dist.
5 The Panchayat Secretary, Gram Panchayat, Bhavanipet, Machareddy Mandal, Nizamabad Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of certiorari call for the records relating to the impugned order passed by the first respondent vide No.501/2004-B5/pts, dt.14-9-2004 and quash the same by duly declaring the order passed by the first respondent placing the petitioner under suspension for a period of 3 months with immediate effect by invoking the provisions under sec.249(6) of A.P.Panchayat Raj Act, 1994 without specifically issuing any notice as contemplated under the first proviso to sec.249(6) of the Act by way of substantive punishment without contemplating any further investigation or enquiry as illegal, arbitrary and contrary to sec.249(6) of the A.P. Panchayat Raj Act, 1994 and also contrary to well settled principles of law laid down while adjudicating the issues which came for consideration before this Hon'ble court arisen under sec.249 of A.P.Panchayat Raj Act, 1994.

Counsel for the Petitioner: MR.V.RAVI KIRAN RAO

Counsel for the Respondents 1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondents No.5: Mrs.G.Jyothi Eswar

The Court, at the stage of admission, made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development appearing for respondents.

Learned Government Pleader states that in the similar circumstances, this Court allowed W.P.No.16171 of 2004 on 04.10.2004.

Petitioner, who was elected as Sarpanch of Bhavanipur Gram Panchayat, Machareddy Mandal, Nizamabad District, was served with a show cause notice, dated 23.07.2004 under Section 249(1) of A.P. Panchayat Raj Act, 1994 (for brevity ' the Act') calling upon him as to why he should not be removed from the office of Sarpanch, for the alleged misuse of funds. To which, the petitioner submitted his explanation on 17.08.2004 requesting 20 days time for completion of Measurement Book and for submission of the same. While so, by impugned order, dated 14.09.2004, the first respondent placed the petitioner under suspension, for a period of three months, in exercise of powers conferred under Section 249(6) of the Act.

Before placing the petitioner under suspension, the mandatory requirement of issuing notice for the proposed action, as per the first proviso to Section 249(6) of the Act, has not be complied with and an enquiry is still pending.

In view of the same, the impugned order cannot be sustained and accordingly, the same is set aside. However, respondents are at liberty to proceed with the enquiry, pursuant to the show cause notice, and after considering the explanation submitted by the petitioner, shall pass appropriate orders, in accordance with law.

The writ petition is allowed accordingly. There shall be no order as to costs.

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06-10-2004

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To

1 The Collector (Panchayat Wing) Nizamabad, Nizamabad Dist.
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3 The Divisional Panchayat officer, Kamareddy, Nizamabad Dist.
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6 2CCs to G.P. for Panchayat Raj and Rural Development, High Court

buildings, Hyderabad.(OUT).

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